

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DANNY R. HILL and U.S. POSTAL SERVICE,  
POST OFFICE, North Metro, GA

*Docket No. 98-329; Submitted on the Record;  
Issued August 16, 1999*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty, as alleged.

The Board has duly reviewed the case record in the present appeal and finds that appellant failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was filed within the applicable time limitations of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.<sup>3</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.

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<sup>1</sup> 5 U.S.C. § 8101.

<sup>2</sup> *Joe Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>4</sup>

In this case, appellant filed an occupational disease claim on March 21, 1997, alleging that he sustained a right shoulder rotator cuff tear as a result of performing his duties as a general expeditor, beginning December 24, 1994 and continuing. By decision dated August 8, 1997, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that appellant failed to establish fact of injury. Appellant has stated that handling mail, moving equipment, which included pushing and pulling APCs loaded with 30 to 40 trays of mail and stooping and bending were the factors of his employment to which he attributes his claimed condition. The Board finds that appellant has established that he experienced such employment factors. However, the evidence of record is not sufficient to establish that the identified factors of employment caused his claimed condition.

The medical evidence in support of appellant's claim consists of a March 10, 1997 attending physician's report (Form CA-20) by Dr. Vincent E. Boswell, a Board-certified orthopedic surgeon; a March 10, 1997 physician's supplemental report (Form CA-20a) by Dr. Boswell; an April 4, 1995 report by Dr. S. Boyd Eaton, a Board-certified radiologist; and a return to work certificate by Dr. Alfred L. Knox, a Board-certified internist, dated December 29, 1994 indicating that appellant was off work from December 25 to 31, 1994 and could return to work on January 2, 1995.

On the March 10, 1997 attending physician's report (Form CA-20) Dr. Boswell related a history of "pain in shoulder since 1995 due to heavy lifting on job." Dr. Boswell diagnosed "full thickness rotator cuff tear" and check "yes" to the question on whether appellant's condition was caused or aggravated by an employment activity. Dr. Boswell indicated that he first examined appellant on February 3, 1997 over two years after appellant became aware of his condition and related it to his employment. Dr. Boswell does not address a causal relationship between appellant's diagnosed condition and the factors of employment identified by appellant. Nor does Dr. Boswell provide any bridging information to support his opinion with supporting rationale causally relating appellant's condition two years later to those employment factors.<sup>5</sup> Also Dr. Boswell did not address how engaging in his employment duties over a period of time either contributed or caused appellant's diagnosed condition. Similarly, on an attending physician's supplemental report (Form CA-20a) also dated March 10, 1997, Dr. Boswell diagnosed a right shoulder rotator cuff tear and recommended surgery which was scheduled for April 24, 1997. Dr. Boswell indicated that appellant could perform light duty with no lifting, pushing or pulling

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<sup>4</sup> *Id.*

<sup>5</sup> *Ruth S. Johnson*, 46 ECAB 237 (1994) The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.

over 20 pounds and no overhead lifting. Dr. Boswell failed to address a causal relationship between appellant's diagnosed condition and any employment factors. Dr. Boswell's attending physician's report and supplemental attending physician's report are insufficient to establish appellant's occupational disease claim. In an April 4, 1995 report, Dr. Eaton interpreted an magnetic resonance imaging (MRI) scan of the right shoulder as revealing a rotator cuff tear. Dr. Eaton's report did not include a history of injury and failed to address a causal relationship between the diagnosed condition and factors of employment identified by appellant. Therefore, Dr. Eaton's report is insufficient to establish appellant's occupational disease claim.

In summary, the medical evidence of record establishes the presence of a condition and appellant has sufficiently identified the specific factors of employment to which he attributes his condition. However, appellant failed to submit medical evidence which included a physician's opinion supported by rationale causally relating a diagnosed condition to the employment factors identified by appellant. By letter dated April 17, 1997, the Office advised appellant of the specific evidence needed to establish his occupational disease claim, but such evidence was not submitted. Therefore, the Board finds that appellant has not met his burden of proof.

The decision of the Office of Worker's Compensation Programs dated August 8, 1997 is affirmed.<sup>6</sup>

Dated, Washington, D.C.  
August 16, 1999

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>6</sup> The Board notes that appellant submitted evidence with his appeal. As this evidence was not previously submitted to the Office for consideration prior to its decision of August 8, 1997, the evidence represents new evidence which cannot be considered by the Board. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may submit this evidence to the Office, together with a formal request for reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.138(b).